

**Bureau of Land Management  
Winnemucca District Office  
HRFO (W010)**

**Categorical Exclusion**

**CX#: DOI-BLM-NV-W010-2013- 0007-CX**

**Date: 9/14/2012**

Lease / Case File / Serial #: N-91351

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2810

Is the project located within a Preliminary Priority Habitat? ☐ Yes ☒ No

Is the project located within a Preliminary General Priority Habitat? ☐ Yes ☒ No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? ☐ Yes ☒ No

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1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Julie McKinnon

3. Project Title: Winnemucca Farms Access Road

4. Applicant: Winnemucca Farms

5. Project Description: (briefly describe who, what, when, where, why, how)

Recently, Winnemucca Farms purchased some property in Orovada for expansion of their potato production business and would like legal access to the property. They submitted a right-of-way application for two access roads.

Both access road proposals exit off of North Valley Road, County road N-77234, westerly to private property. These roads have been in existence since approximately the mid to late 60's and the private property owners were under the impression that the existing access roads were either County claimed or identified roads or had existing ROW authorizations. Both of the roads show up on the 7.5" 1990 topographic map. The road on the north end of this project area is an access/maintenance road for an existing power line and substation owned by Harney Electric Co. The northern segment of road is approximately 2,634 feet in length and approximately 42 feet wide where the road turns off of North Valley Road, then narrows to approximately 20 feet wide for about 3/10<sup>th</sup> of a mile then there is some existing disturbance approximately 45 feet wide for approximately 50-100 yards.

The southern road is dirt and gravel approximately 93 feet wide where the turns off of North

**CX#: DOI-BLM-NV-W010 -2013-0007 -CX**  
**Applicant: Winnemucca Farms**  
**Project Title: Access roads to private property**

valley Rd. then the existing disturbance is approximately 88 feet wide the remainder the way to the private property; the length is 1,320 feet. These roads would be used year-round, mostly during the spring, summer and fall.

Applicant would maintain the roads using a blade or grader within the existing footprint of the roads.

If approved this right-of-way would be authorized for 20 years with a right to renew.

Project dimensions (length, width, height, depth): 65' x 2,634' = 171,210 sq. ft. and 100' x 1,320' = 132,000 sq. ft.

Total Acres: 6.96

BLM Acres: 6.96

Will the project result in new surface disturbance? ☐ Yes ☒ No

Has the project area been previously disturbed? ☒ Yes ☐ No ☐ N/A

If yes, what percent of the project area has been disturbed? 100%. If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T. 44 N., R. 37 E., sec. 17, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ .

USGS 24k Quad name: Willow Creek Ranch

100k map name: Quinn River Valley

Land Status: ☒ BLM ☐ Private ☐ Other\_\_\_\_\_.

**7. Add project to your version for the NEPA Geodatabase.** Using the NEPA Geodatabase and templates (T:\NV\GIS\_Work\WMDO\Templates) **create PDFs** of 1:24,000 Project Location Map and 1:100,000 general vicinity map. For more guidance, see S:\NEPA\NEPA\_2012\NEPA 2012 Templates\Proposed Action\CX Proposed Action Form and Instructions).

**Part I: Plan Conformance Review**

The Proposed Action is subject to the:

- ☒ Paradise-Denio Management Framework Plan
- ☐ Sonoma-Gerlach Management Framework Plan
- ☐ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

The Paradise-Denio MFP is silent on ROWs. In accordance with FLPMA Section 501(1), the BLM are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands...

**Part II: NEPA Review**

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

- ☐ 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*)
- ☒ 516 DM 11.9, (BLM) E. Realty: #16: Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

**CX#: DOI-BLM-NV-W010 -2013-0007 -CX**  
**Applicant: Winnemucca Farms**  
**Project Title: Access roads to private property**

**ESA and BLM Sensitive Status Species**

<b>Evaluation Criteria</b>	<b>Yes</b>	<b>No</b>
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Table 1. Special Status Species that may occur in the project area:**

<b>ESA</b>	<b>BLM</b>	<b>Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Mitigation for BLM Sensitive Species (Attach ESA Section 7 Compliance to Form)</b>
<input type="checkbox"/>	<input type="checkbox"/>	Pygmy Rabbit ( <i>Brachylagus idahoensis</i> )	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Most likely not affected as long as there is no new surface disturbance
<input type="checkbox"/>	<input type="checkbox"/>	burrowing owl ( <i>Athene cunicularia</i> ), loggerhead shrike ( <i>Lanius ludovicianus</i> ), vesper sparrow ( <i>Pooecetes gramineus</i> ), sage thrasher ( <i>Oreoscoptes montanus</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See mitigation for MBTA (Table 2)
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

**Table 2 Migratory Bird Treaty Act Consideration**

<b>Potential MBTA Species w/in the Project Area Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Recommended Mitigation</b>
black-throated sparrow ( <i>Amphispiza bilineata</i> ), Brewer’s blackbird ( <i>Euphagus cyanocephalus</i> ), Brewer’s sparrow ( <i>Spizella breweri</i> ), burrowing owl ( <i>Athene cunicularia</i> ), canyon wren ( <i>Catherpes mexicanus</i> ), gray flycatcher ( <i>Empidonax wrightii</i> ), green-tailed towhee	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	BLM recommends no road maintenance activity during migratory bird breeding season (March 1 <sup>st</sup> – August 31 <sup>st</sup> )

**CX#: DOI-BLM-NV-W010 -2013-0007 -CX**  
**Applicant: Winnemucca Farms**  
**Project Title: Access roads to private property**

( <i>Pipilo chlorurus</i> ), loggerhead shrike ( <i>Lanius ludovicianus</i> ), rock wren ( <i>Salpinctes obsoletus</i> ), sage sparrow ( <i>Amphispiza belli</i> ), sage thrasher ( <i>Oreoscoptes montanus</i> ), western meadowlark ( <i>Sturnella neglecta</i> ), and vesper sparrow ( <i>Pooecetes gramineus</i> )		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

*Mitigation Measures/Remarks:*

- BLM recommends no road maintenance activity during migratory bird breeding season (March 1<sup>st</sup> – August 31<sup>st</sup>)

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

### **Part III: DECISION:**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required.

☒ Project authorization is subject to mitigation measures identified above. (This is a NEPA Decision. A separate program implementation decision is necessary.)

☐ Based on regulatory authority or law that allows BLM to take action, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above and attached as stipulations, conditions of approval, terms of conditions, etc. This is a combined NEPA and program implementation decision.

Authorized Official /s/Vern Graham Date: 2/27/13  
(Signature)

Pursuant to 2805.13, a right-of-way grant is effective after both the applicant and the BLM sign it, which carries the “full force and effect” of the decision. Full force and effect means that the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. Immediate implementation is an option, not a requirement, of the decision.

#### **Administrative Review or Appeal Opportunities**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Vern Graham, Field Manager, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-

**CX#: DOI-BLM-NV-W010 -2013-0007 -CX**  
**Applicant: Winnemucca Farms**  
**Project Title: Access roads to private property**

1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).